REMARKS

The applicants have carefully considered the Office action dated November 30, 2006, and the references it cites. By way of this Response, claims 1, 3, 6, 24, 25, and 35 have been amended. In view of the following, it is respectfully submitted that all pending claims are in condition for allowance and favorable reconsideration is respectfully requested.

Preliminary Matters

As an initial matter, the applicants note that claims 30-34, 39-42 and 48 stand allowed and are not further discussed in this paper.

As a second preliminary matter, the applicants note that the Office action indicated that claims 6-11 and 47 would be allowed if rewritten in independent form. In keeping with this suggestion, the applicant has rewritten claim 6 in independent form. Accordingly, as acknowledged in the Office action, claim 6 and all claims depending therefrom are in condition for allowance and will not be further discussed herein.

Applicants note that the amendments to claim 6 were not narrowing. Indeed, those amendments changed the form of claim 6, but did not change its scope in any respect. As such, the noted amendments do not create prosecution history estoppel or in any way limit the scope of equivalents of claim 6 or any claim depending therefrom.

Art Rejections

Turning to the art rejections, the Office action rejected claims 1-5, 12-19, 21-26, 35, 36 and 46 based on Harvey et al., US Patent 4,188,745, Cheng, US Patent 6,418,575, Cheng, US Patent 6,640,985, O'Neil, US Patent 5,930,854, and/or Hsia, US Paten 6,639,563. Applicant respectfully traverses these rejections.

Turning first to the 102(b) rejection of claim 36, applicants note that Harvey does not teach securing a play gym at least partially above at least one of a bassinet and a play yard *such that the play gym is not in contact with a floor mat of the at least one of the bassinet and the play yard* as recited in claim 36. Harvey clearly described using its device in a bassinet or play yard, but in every such instance it is clear that the Harvey device is in contact with the floor mat of the play yard or bassinet (see FIG. 4 and Col. 3, lines 6-15 stating "the flat angular base 34 disposed in the bottom of an infant bed 60"). Furthermore, the Office action attempts to read the base 34 as the floor mat of claim 36 when it argues that Harvey teaches securing the play gym to the floor mat apart from the play gym and the bassinet as recited in claim 36. However, such a reading expressly ignores the recitations of claim 36 requiring the floor mat to be "a floor mat of the at least one of the bassinet and the play yard." In view of the foregoing, it is clear that Harvey fails to meet at least two recitations of claim 36. Therefore, the anticipation rejection of claim 36 based on Harvey is in error and must be withdrawn.

Turning to the obviousness rejections, the applicants note that the United States Supreme Court recently issued the KSR Int'l Co. v. Teleflex, Inc., 550 U.S. ___ 2007, 207 WL 1237837 (2007) decision. This opinion is

instructive on many issues surrounding the obviousness standard set forth in 35 U.S.C. § 103. For example, the Supreme Court states:

> A patent composed of several elements is ***not*** proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. ... *This is so because inventions in most, if not all, instances rely upon building blocks long since uncovered, and claimed discoveries almost of necessity will be combinations of what, in some sense, is already known.*

KSR, 207 WL at Page 10 (emphasis added). Moreover, the Supreme Court made it clear that:

> A fact finder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon ex post reasoning. See Graham, 383 U.S. at 36 (warning against a "temptation to read into the prior art the teachings of the invention in issue" and "'guard against slipping into the use of hindsight'" (quoting Monroe Auto Equipment Co. v. Heckethorn Mfg & Supply Co., 332 F.2d 406, 412 (CA6 1964)).

KSR, 207 WL at Page 12. Thus, it is very clear that the law of the land continues to preclude the USPTO from utilizing the teachings of the invention to piece together the invention from the prior art. As explained in the following, absent the improper use of hindsight, none of the combinations of prior art relied upon by the Office action teach or suggest the claims pending in this application.

The Office action relies upon three primary references to reject the claims. Harvey is directed to an infant toy that may be connected to a car seat or the like and/or placed in an infant bed or play pen. In the words of Harvey, "The infant toy is adapted for mounting on the sides of an infant seat or car seat and may be quickly removed and *placed in* an infant bed." (Col. 1, lines 22-24)(emphasis added). Thus, Harvey includes a mechanism to secure the

toy to a car seat and a base 34 to stand the toy upright in an infant bed. As explained in Harvey:

> The toy includes a flat angular base having a pair of collars for receiving the ends of the vertical arms for holding the toy in an upright position in an infant bed. The toy also includes a pair of adjustable clamps which are slidably mounted on the elongated vertical arms for securing the toy to the sides of an infant seat or car seat.

(Col. 1, lines 41-47). "The flat base 34 is used for holding the infant toy 10 in an upright position and is used when the toy 10 is placed inside an infant bed, playpen, stroller, or any similar type of infant bed." (Col. 2, lines 15-18).

FIG. 2 (reproduced below) shows the Harvey toy coupled to a car seat and FIG. 4 (reproduced below) shows the Harvey toy placed in an infant bed:

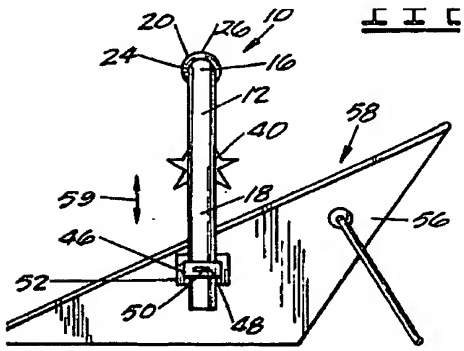


FIG. 2

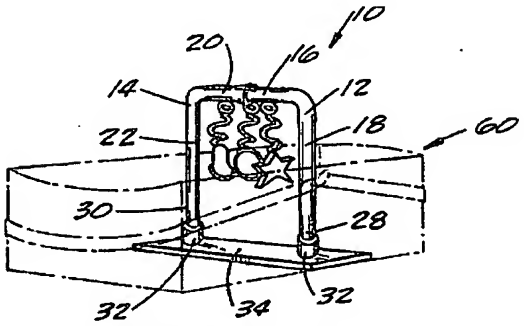


FIG. 4

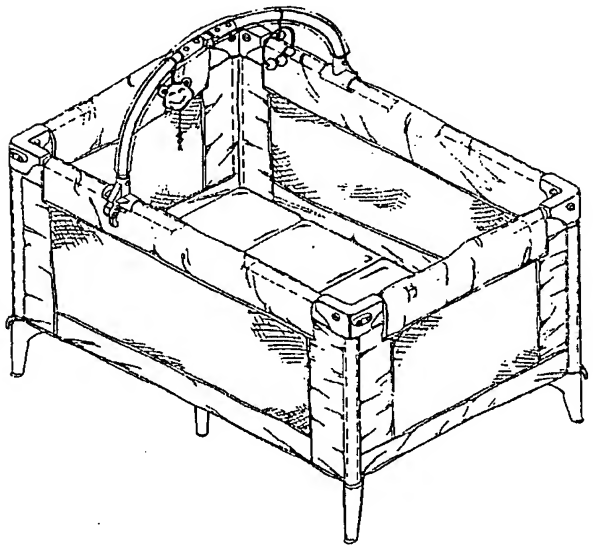
The following passage of Harvey demonstrates that Harvey contemplates placing the toy on the floor of the infant bed and that a mattress (e.g., a floor mat) may be positioned on the base 34 of the toy between the tubes 12 and 14:

> The toy 10 in FIG. 4 is shown with the flat angular base 34 disposed in the bottom of an infant bed 60. The ends 28 and 30 of the vertical arms 18 and 22 are received in a press fit in the collars 32 on top of the base 34. ***The infant can be placed on top of the flat base 32 with the play objects suspended above him or a blanket or mattress may be placed on top of the base 34 and between the tubes 12 and 14.*** While an infant bed is shown, it should be appreciated that the toy 10 as shown in FIG. 4 could also be used in a playpen, stroller, or any other flat surface used for placing the infant thereon.

(Col. 3, lines 6-17)(emphasis added). Thus, Harvey plainly contemplates a toy that can be removably placed in a bassinet or play yard in engagement with the floor mat of the bassinet or play yard. Harvey makes no mention of using his toy with the floor mat of the bassinet or play yard apart from the of the bassinet or play yard.

Cheng, U.S. Patent 6,418,575 (referred to herein as Cheng I), shows a play yard bassinet combination, but makes no mention of a toy bar. Thus, Cheng is not particularly of interest to any of the claims pending in this application.

The newly cited Cheng reference (U.S. Patent 6,640,985, referred to herein as Cheng II), is more interesting then the Cheng I reference in that it plainly contemplates removably securing a play gym across the upper rails of a play yard. Figure 8 of Cheng II is reproduced below for ease of reference:



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Like Harvey, Cheng II makes no mention of using his play gym with the floor mat of the bassinet or play yard apart from the of the bassinet or play yard.

Without making reference to applicant's disclosure, there would be no reason to combine Cheng II and Harvey. This can be easily seen in that Cheng II provides the function of suspending toys above a play yard, so it has no need of Harvey. Similarly, Harvey also provides the function of suspending toys above a play yard and, thus, has not need of Cheng II. Thus, one might pick between the Harvey approach and the Cheng II approach if one were to seek to provide a play gym for a bassinet or play yard, but a person of ordinary skill in the art would have no reason to seek to combine the Harvey and Cheng structures. Indeed, the only reason one would look to combine Harvey and Cheng II is if one were already aware of applicant's disclosure and seeking to reconstruct the same. However, this is precisely the sort of hindsight reconstruction the Supreme Court admonished against in the KSR decision.

Turning specifically to the claim limitations, claim 1 recites a floor mat; a play gym to suspend an object above the mat; at least one connector to couple the play gym to the mat; *wherein the play gym is couplable to the at least one of the play yard and the bassinet such that a lowest portion of the play gym is spaced a distance above the floor mat.* As noted above, while Harvey describes connecting a play gym to a floor mat, Harvey at most describes a play gym that rests on or below the floor mat of a play yard or bassinet and does not contemplate a play gym that is couplable to the play yard or bassinet such that a lowest portion of the play gym is spaced a distance above the floor mat. Neither Cheng I nor Cheng II provides any motivation to modify Harvey to meet this recitation. Accordingly, claim 1 and all claims depending therefrom are allowable.

Independent claim 3 is also allowable. Claim 3 recites an apparatus comprising a floor mat; a play gym to suspend an object above the floor mat; at least one connector to secure the play gym to the floor mat, *the at least one connector comprising at least one non-pivoting connector located within a perimeter of the floor mat and accessible through a top of the floor mat.* No combination of Cheng I, Cheng II or Harvey teaches or suggests such an apparatus. For example, Harvey at most teaches positioning a mattress/floor mat between the connectors 32 (see Co. 3, lines 10-14). Cheng I has no mention of a play gym and Cheng II clearly places its connectors outside the perimeter of the floor mat. Accordingly, any way one combines Harvey, Cheng I and Cheng II, one fails to arrive at the apparatus recited in claim 3. Therefore, claim 3 and all claims depending therefrom are in condition for allowance.

Independent claim 23 is also allowable. Claim 23 recites an apparatus comprising: a mat; and a plurality of connectors coupled to the mat to be moved between a first position within a perimeter of the mat and a second position outside the perimeter of the mat. Further, the play gym is recited to be removably coupled to the connectors. Harvey has no movable connectors. Cheng I has no connectors. The Cheng II connectors are movable, but they are affixed to the play gym. Thus, none of Harvey, Cheng I or Cheng II teaches or suggests movable connectors that may be removably coupled to a play gym to connect a play gym to a mat and that are movable between a first position within a perimeter of the mat and a second position outside the perimeter of the mat. Accordingly, no combination of Harvey, Cheng I and Cheng II meets the recitations of claim 23. As a result, claim 23 and all claims depending therefrom are in condition for allowance.

Independent claim 24 is also allowable. Claim 24 recites a floor mat of at least one of a play yard and a bassinet which is dimensioned to substantially cover a floor of the at least one of the play yard and the bassinet, and specifies that the play gym is dimensioned to be secured to the at least one of the play yard and the bassinet *a distance above the floor mat when the floor mat is located in the at least one of the play yard and the bassinet.* As discussed above, Harvey does not teach connection a play gym to a bassinet or play yard a distance above the floor mat. While Cheng II does describe such a connection, absent hindsight reference to the applicant's disclosure, there is no rationale for combining Harvey and Cheng II in a manner that would meet the recitations of claim 24. Accordingly, claim 24 is in condition for allowance.

Independent claim 25 is also allowable. Claim 25 recites a play gym having a first mode in which the play gym suspends an object above at least one of the bassinet and the play yard, and a second mode in which the play gym suspends the object above the mat but not above the at least one of the play yard and the bassinet, wherein, in the first mode, *the play gym is secured to the at least one of the play yard and the bassinet a distance above the floor mat* with the floor mat located in the at least one of the play yard and the bassinet. As discussed above, no combination of the art of record teaches or suggests such a play gym. Accordingly, claim 25 should be allowed.

Independent claim 26 is also allowable. Claim 26 recites, among other things, a play gym ***which does not contact the floor mat when the floor mat is positioned in the at least one of the bassinet and the play yard.*** In sharp contrast, the base 34 of Harvey (which the Office action contends is a floor mat) ***must*** be in contact with the play gym via connectors 32 whenever the toy gym 10 is placed in an infant bed/play pen, or the Harvey play gym will be rendered inoperative. Furthermore, as discussed above, Cheng II provides no teaching for modifying Harvey to meet the recitations of claim 26. Accordingly, claim 26 is in condition for allowance.

Independent claim 35 is also patentable. Claim 35 recites an apparatus comprising: at least two legs, each of the legs having a second end dimensioned to be removably coupled to: (a) at least one of a bassinet and a play yard, and (b) a floor mat of the at least one of the bassinet and the play yard when the floor mat is separate from the at least one of the bassinet and the play yard. As discussed above, neither Harvey nor Cheng II teaches or

suggests a play yard that is removably couplable to both (1) a bassinet or play yard and (2) a floor mat of the bassinet or play yard. Accordingly, claim 35 is in condition for allowance.

Independent claim 36 is also allowable. Claim 36 recites securing a play gym at least partially above at least one of a bassinet and a play yard such that the play gym is *not* in contact with a floor mat of the at least one of the bassinet and the play yard; and securing the play gym to the floor mat apart from the play gym and the bassinet. As discussed above, the play gym 10 of Harvey contacts the floor mat 34 whenever the play gym is used with an infant bed/play pen. Accordingly, Harvey does not teach or suggest the recitations of claim 36. Further, as discussed above, there is no rationale for modifying Harvey to meet the recitations of claim 36. Accordingly, claim 36 and all claims depending therefrom are in condition for allowance.

Independent claim 46 is also patentable. Claim 46 recites, among other things, at least one first connector to couple the play gym to the mat; and at least one second connector to couple the play gym to at least one of a play yard and a bassinet ***without engaging the play gym and the mat.*** As discussed above, the play gym 10 of Harvey contacts the floor mat 34 whenever the play gym is used with an infant bed/play pen. Accordingly, Harvey does not teach or suggest the recitations of claim 46. Further, absent reference to the applicant's disclosure, there is no rationale for modifying Harvey to meet the recitations of claim 46. Accordingly, claim 46 and all claims depending therefrom are in condition for allowance.

Applicants recently became aware of US Patents 7,040,585, 7,153,181, and 7,037,170 and the Chinese counterparts to the '585 and '181 patents. The

'585 and '181 patents are owned by Link Treasures, the Chinese manufacturer of the applicants' commercial product and are believed to have been derived from the applicants. The '170 patent is owned by Graco and is believed to be indicative of a competitive response to the applicants commercialization of their invention. The activities of these commercial entities is further evidence of the nonobvious nature of the applicants' invention. To enable the Examiner to consider these references and the search results of the Examiners that allowed these competing patents, the applicants have concurrently filed an information disclosure statement citing these patents and the art cited against these patents.

If the Examiner is of the opinion that a telephone conference would expedite the prosecution of this case, the Examiner is invited to contact the undersigned at the number identified below.

Respectfully submitted,

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